

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PERSONALIZED MEDIA
COMMUNICATIONS, LLC,

Plaintiff,

v.

APPLE, INC.

Defendant.

Civil Action No. 2:15-cv-01366-JRG-RSP
(LEAD CASE)

JURY TRIAL DEMANDED

PERSONALIZED MEDIA
COMMUNICATIONS, LLC,

Plaintiff,

v.

TOP VICTORY ELECTRONICS (TAIWAN)
CO. LTD., TPV INT'L (USA), INC.,
ENVISION PERIPHERALS, INC., TOP
VICTORY ELECTRONICS (FUJIAN) CO.
LTD., TPV ELECTRONICS (FUJIAN) CO.
LTD., TPV TECHNOLOGY LTD., HON HAI
PRECISION INDUSTRY (TAIWAN) CO.,
LTD., WISTRON CORP., WISTRON
INFOCOMM TECHNOLOGY (TEXAS)
CORP., WISTRON INFOCOMM
TECHNOLOGY (AMERICA) CORP., and
VIZIO, INC.,

Defendants.

Civil Action No. 2:15-cv-01206-JRG-RSP
(CONSOLIDATED CASE)

JURY TRIAL DEMANDED

UNOPPOSED MOTION TO MODIFY THE DOCKET CONTROL ORDER

Defendants Top Victory Electronics (Taiwan) Co. Ltd., TPV Int'l (USA), Inc., Envision
Peripherals, Inc., Top Victory Electronics (Fujian) Co. Ltd., TPV Electronics (Fujian) Co. Ltd.,
TPV Technology Ltd., Hon Hai Precision Industry (Taiwan) Co., Ltd., Wistron Corp., Wistron

Infocomm Technology (Texas) Corp., Wistron Infocomm Technology (America) Corp., and VIZIO, Inc. (collectively, “VIZIO”) file this Unopposed Motion to Modify the Docket Control Order to modify certain claim construction deadlines.

Plaintiff Personalized Media Communications, LLC (“PMC”) has lawsuits pending against three different sets of defendants: (1) VIZIO (and several of its suppliers), (2) Apple, and (3) Samsung. PMC asserts the same six patents (and claims) against VIZIO and Samsung. PMC also asserts four patents against Apple. One of the patents asserted against Apple is also asserted against VIZIO and Samsung. The table below maps the Asserted Patents to each defendant:

Patent	Asserted Against Apple	Asserted Against VIZIO	Asserted Against Samsung
'091 Patent	X		
'635 Patent	X		
'088 Patent	X		
'2,649 Patent	X (4 Claims)	X (44 Claims)	X (44 Claims)
'6,649 Patent		X	X
'650 Patent		X	X
'217 Patent		X	X
'775 Patent		X	X
'885 Patent		X	X

Currently, the Court has two *Markman* hearings scheduled. Apple and VIZIO have a common hearing, scheduled for June 28, 2016. Under the Court’s Docket Control Order, that hearing is set to be divided into three arguments—one argument will focus on terms common to Apple and VIZIO, and two additional arguments will focus on terms unique to Apple or VIZIO, respectively. The Court has set a separate claim construction hearing in the Samsung case for September 1, 2016. Currently, that hearing will focus on all terms appearing in the six patents asserted against Samsung.

VIZIO requests that this Court divide its claim construction deadlines into two phases to account for the overlap of patents between VIZIO and Samsung. In Phase 1, the VIZIO claim

construction would be limited to only those terms that are common with Apple. For Phase 1, VIZIO would be limited to a 10-page brief on the issues, and would participate in the *Markman* hearing currently scheduled in June. VIZIO requests that any terms not in common with Apple be handled in Phase 2, pursuant to a schedule consistent with the Samsung claim construction schedule. In Phase 2, VIZIO would brief the remaining claim terms, and participate with Samsung in its currently-scheduled *Markman* hearing, set for September 1.

VIZIO submits that this extension would conserve judicial resources because the Court would no longer be required to hold separate claim construction hearings for VIZIO and Samsung regarding the same patents. And, although this bifurcated approach extends the schedule for terms that were previously scheduled for the *Markman* hearing in June, the overall schedule for the VIZIO matter will remain the same, as this proposal incorporates the current *Markman* deadlines that apply to Samsung, and does not delay the VIZIO trial setting. Therefore, the Court would not be required to schedule any additional hearings.

PMC has agreed to this schedule. VIZIO has also met and conferred with Samsung, and Samsung does not object to VIZIO's request to join the September 1 *Markman* hearing. The affected claim construction deadlines appear in the table below:

Previous Date	New Date	Event
June 28, 2016	September 1,	<u>PHASE 2:</u> *Claim Construction Hearing - 9:00 a.m. in Marshall, Texas before Judge Roy Payne The claim construction hearing will be consolidated with the hearing currently scheduled for <i>PMC v. Samsung</i> , Civil Action No. 2:15-cv-01754.
June 14, 2016	August 18, 2016	<u>PHASE 2:</u> *Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
June 7, 2016	August 11, 2016	<u>PHASE 2:</u> *Comply with P.R. 4-5(c) (Reply Claim Construction Brief)

May 31, 2016	August 4, 2016	<u>PHASE 2:</u> Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
May 17, 2016	July 21, 2016	<u>PHASE 2:</u> Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any) Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a).
May 13, 2016	July 11, 2016	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
June 28, 2016	Unchanged	<u>PHASE 1:</u> *Claim Construction Hearing – 9:00 a.m. in Marshall, Texas before Judge Roy Payne VIZIO will participate with respect to terms common to VIZIO and Apple.
May 6, 2015	June 16, 2016	<u>PHASE 2:</u> Comply with P.R. 4-3 (Joint Claim Construction Statement for Terms Not Addressed in Phase 1)
June 14, 2016	Unchanged	<u>PHASE 1:</u> *Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
June 7, 2016	Unchanged	<u>PHASE 1:</u> *Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
May 31, 2016	Unchanged	<u>PHASE 1:</u> Comply with P.R. 4-5(b) (Responsive Claim Construction Brief) Defendants are permitted to file a Responsive Claim Construction brief in each case. Apple's brief shall be governed by the page limits set forth in P.R. 4-5(e). Defendants in Civil Action No. 2:15-cv-01206 may file a separate brief limited to overlapping claim terms, which shall be no more than 10 pages.
April 21, 2016	May 26, 2016	<u>PHASE 2:</u> Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions Not Addressed in Phase 1)
May 17, 2016	Unchanged	<u>PHASE 1:</u> Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any) Plaintiff is permitted to file a common Opening Claim Construction brief in each case (Civil Action Nos. 2:15-cv-01206 and 2:15-cv-01366), governed by the page limits set forth in P.R. 4-5(e). Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a).
April 8,	May 12,	<u>PHASE 2:</u> Comply with P.R. 4-1 (Exchange Proposed Claim Terms

2016	2016	Not Addressed in Phase 1)
May 6, 2016	Unchanged	<u>PHASE 1:</u> Comply with P.R. 4-3 (Joint Claim Construction Statement)
April 21, 2016	Unchanged	<u>PHASE 1:</u> Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions Common to Apple Case) Plaintiff and Defendants in Civil Action No. 2:15-cv-1206 may only exchange preliminary claim construction for those terms appearing in their P.R. 4-1 disclosures.
April 8, 2016	Unchanged	<u>PHASE 1:</u> Comply with P.R. 4-1 (Exchange Proposed Claim Terms Common to Apple Case) Plaintiff and Defendants in Civil Action No. 2:15-cv-1206 may only exchange those terms that have already appeared on P.R. 4-1 disclosures circulated in Civil Action No. 2:15-cv-1366.

VIZIO does not seek these extensions for the purposes of delay, and submits that good cause exists for the amendments.

A proposed order is attached.

Dated: April 6, 2016

Respectfully submitted,

/s/Charles Everingham IV

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 6th day of April, 2016, with a copy of the foregoing document via the Court's CM/ECF system.

/s/ Charles Everingham IV
Charles Everingham IV